

Application No. 10/660,636
Reply to Office Action of October 8, 2004

IN THE DRAWINGS

The attached sheet of drawings includes changes to FIGS. 13. This sheet, which includes FIG. 13, replaces the original sheet including FIG. 13.

Attachment: Replacement Sheets (1)

REMARKS

Favorable reconsideration of this Application, as presently amended and in light of the following discussion, is respectfully requested.

This Amendment is in response to the Office Action mailed on October 8, 2004. Claims 1-11 and 13-43 are pending in the Application, Claims 1-11, 13-15, and 17-21 stand rejected, and Claims 12 and 16 stand objected to as being dependent upon rejected base claims, but would be allowed if rewritten in independent form. Claims 1-11 and 13-21 are amended, Claim 12 is cancelled without prejudice or disclaimer, and new Claims 22-43 are added by the present Amendment.

The indication of allowable subject matter is noted with appreciation. Claim 1 has been amended to incorporate the subject matter of Claim 12 and Claim 16 has been rewritten in independent form incorporating therein the subject matter of Claim 1. As discussed below, Applicants believe that Claims 1 and 16 patently distinguish from all cited prior art without the additional limitation of intervening claims.

Summarizing the outstanding Office Action, The drawing were objected to under 37 C.F.R. §1.84(p)(5). The specification and Claims 11 and 16 were objected to because of informalities. Claims 1, 2, 11, and 21 were rejected under 35 U.S.C. §102(e) as being anticipated by Sameshima et al. (U.S. Patent No. 6,493,528 B2, hereinafter "Sameshima"). Claims 3-6, 8, 10, and 13-15, and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sameshima in view of Honobe et al. (Japanese Publication No. JP 2002-148884, hereinafter "Honobe"). Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sameshima and further in view of Torimaru et al. (U.S. Patent No. 5,617,195, hereinafter "Torimaru"). Claim 18 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sameshima in view of Honobe and Torimaru and further in view of

Aruga et al. (U.S. Patent No. 5,537,191, hereinafter "Aruga"). Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sameshima in view of Yamane et al. (U.S. Patent No. 6,085,052, hereinafter "Yamane"). Claims 1-11, 13-15, and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yasunobu et al. (JP 11-095519, hereinafter "Yasunobu") in view of Shimotoso et al. (JP 2001-296712, hereinafter "Shimotoso") and Sameshima. Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Yasunobu in view of Shimotoso, Sameshima, and Torimaru. Claim 18 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Yasunobu in view of Shimotoso, Sameshima, Torimaru, and Aruga.

In response to the drawing objections, Applicants have submitted herein replacement for FIG. 13, removing element 260B and its associated lead line to correct the informalities noted by the Examiner. As to element 367a in FIG. 11, that element is the lower end of the screw member. A paragraph of the specification has been amended to include this description. In view of these changes, Applicants respectfully request reconsideration of the objection to the drawings. No new matter has been added to the above-referenced Application by the replacement drawing and amended paragraph submitted.

The Specification was objected to because of several informalities. Applicants note with appreciation the time taken by the Examiner to identify specific areas needing revisions. Applicants have herein submitted replacement to several paragraphs in the Specification to correct the outstanding informalities and an amended abstract of the disclosure and respectfully request reconsideration of the same.

Claims 11 and 16 were objected to because of several informalities. Applicants have amended Claims 11 and 16, including correction of the cited informalities, and respectfully request reconsideration of the objection thereto. Other amendments to the claims have also been submitted to place all claims in better compliance with standard U.S. practice. It is

believed that all pending claims are definite and no further rejection on that basis is anticipated. If, however, the Examiner disagrees, the Examiner is invited to telephone the undersigned who will be happy to work with the Examiner in a joint effort to derive mutually acceptable language.

Claims 1, 2, 11, and 21 were rejected under 35 U.S.C. §102(e) as being anticipated by Sameshima et al. (U.S. Patent No. 6,493,528 B2, hereinafter "Sameshima").

Applicants respectfully submit that Claim 1, as presently amended, is not anticipated by Sameshima because each and every element as set forth in that claim is not found, either expressly or inherently described, in the cited reference. In an anticipation rejection, MPEP § 2131 requires that the identical invention must be shown in as complete detail as is contained in the claim.

Claim 1 has been amended with the subject matter of allowable Claim 12, i.e., a waste toner transport device that transports the waste toner in the container from a region having the shortest height to another having the tallest height. The subject matter of intervening Claims 2 and 3 were not incorporated in Claim 1 because, as presently amended, Claim 1 is not anticipated or made obvious by Sameshima or, for that matter, by any of the other references cited in the outstanding Office Action.

Sameshima describes an image forming unit and image forming apparatus having a container 16 (shown in FIG. 3 of Sameshima) comprising agitating plates 35, as illustrated in FIGS. 8 and 9. As shown in FIG. 3, the agitating plates 35 agitate the waste toner, but they do not transport the waste toner in the container 16 from a region having the shortest height to another having the tallest height, as recited in Claim 1.

Applicants respectfully submit that Claim 1 is not anticipated by Sameshima. This cited prior art reference does not disclose a waste toner transport device to transport the waste toner in a container from a region having the shortest height to another having the

tallest height. In addition, Claims 2, 11, and 21 should be allowed, among other reasons, as depending either directly or indirectly from Claim 1, which should be allowed as just explained. Therefore, Applicants respectfully request that the anticipation of Claims 1, 2, 11, and 21 under 35 U.S.C. §102(e) be withdrawn.

Turning the attention now to the obviousness rejections summarized hereinabove, Applicants respectfully submit that Sameshima, neither individually nor in combination with any of the cited prior art references, support a prima facie case of obviousness of the invention recited in Claim 1 because, even when combined, these references do not teach or suggest all of the claimed features.

Sameshima was acknowledged as failing to disclose several features, thus the need to cited Honobe, Torimaru, Aruga, Yamane, Yasunobu, and Shimotoso. However, none of these references remedy Sameshima's lack of teaching of the features discussed hereinabove. Based at least on the foregoing discussion, Applicants respectfully request that all pending obviousness rejections under 35 U.S.C. §103(a) be withdrawn.

Claim 16 has been rewritten in independent form, including the subject matter of Claim 1. The subject matter of Claims 2, 3, and 12 were not incorporated to Claim 16 because Claim 16, as presently amended, patently distinguish from all cited prior art without the additional limitation of intervening claims.

Claim 16 recites a waste collecting device, comprising, among other features, a waste toner transport device having a transporting capacity that is inversely proportional to a height of the container. The agitating plates 35 of Sameshima is not the same as the waste toner transport device recited in Claim 16 because it does not have a transporting capacity that is inversely proportional to a height of a the waste container. Furthermore, none of the other prior art references in the outstanding Office Action remedy this deficiency of Sameshima. Therefore, Claim 16 should be allowed as presently amended.

Finally, Applicants have submitted herein new Claims 22-43, which find non-limiting support in the as-filed claims (dependent Claims 22 and 24-43) and in FIG. 5 (independent Claim 23) of Applicants' Specification.

New independent Claim 23 recites, among other features, a waste toner collecting device comprising a container with a slanted surface with an opening and a substantially vertical surface and a waste toner transporting device to transport waste toner from a region having a tallest height to a region having a shortest height, an opening in the container being located in a region where the slanted surface meets the substantially vertical surface and the region defining a substantially highest point of the container. Applicants respectfully submit that, based at least on the above-summarized discussion, Claim 23 is neither anticipated nor made obvious by any of the prior art references cited in the outstanding Office Action.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal Allowance. A Notice of Allowance for Claims 1-11 and 13-43 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representatives at the below listed telephone number.

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Respectfully submitted,

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